

Volume 30, Number 11
Pages 1105-1214
June 1, 2005

SALUS POPULI SUPREMA LEX ESTO

"The welfare of the people shall be the supreme law."



ROBIN CARNAHAN
SECRETARY OF STATE

MISSOURI
REGISTER

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The *Missouri Register* is published semi-monthly by

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ISSN 0149-2942, USPS 320-630; periodical postage paid at Jefferson City, MO

Subscription fee: \$56.00 per year

POSTMASTER: Send change of address notices and undelivered copies to:

MISSOURI REGISTER

Office of the Secretary of State

Administrative Rules Division

PO Box 1767

Jefferson City, MO 65102

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Documents will be accepted for filing on all regular workdays from 8:00 a.m. until 5:00 p.m. We encourage early filings to facilitate the timely publication of the *Missouri Register*. Orders of Rulemaking appearing in the *Missouri Register* will be published in the *Code of State Regulations* and become effective as listed in the chart above. Advance notice of large volume filings will facilitate their timely publication. We reserve the right to change the schedule due to special circumstances. Please check the latest publication to verify that no changes have been made in this schedule. To review the entire year's schedule, please check out the website at <http://www.sos.mo.gov/adrules/pubsched.asp>

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HOW TO CITE RULES AND RSMo

RULES—Cite material in the *Missouri Register* by volume and page number, for example, Vol. 28, *Missouri Register*, page 27. The approved short form of citation is 28 MoReg 27.

The rules are codified in the *Code of State Regulations* in this system—

Title	Code of State Regulations	Division	Chapter	Rule
1	CSR	10-	1.	010
Department		Agency, Division	General area regulated	Specific area regulated

They are properly cited by using the full citation, i.e., 1 CSR 10-1.010.

Each department of state government is assigned a title. Each agency or division within the department is assigned a division number. The agency then groups its rules into general subject matter areas called chapters and specific areas called rules. Within a rule, the first breakdown is called a section and is designated as (1). Subsection is (A) with further breakdown into paragraph 1., subparagraph A., part (I), subpart (a), item I. and subitem a.

RSMo—The most recent version of the statute containing the section number and the date.

Rules appearing under this heading are filed under the authority granted by section 536.025, RSMo 2000. An emergency rule may be adopted by an agency if the agency finds that an immediate danger to the public health, safety or welfare, or a compelling governmental interest requires emergency action; follows procedures best calculated to assure fairness to all interested persons and parties under the circumstances; follows procedures which comply with the protections extended by the *Missouri* and the *United States Constitutions*; limits the scope of such rule to the circumstances creating an emergency and requiring emergency procedure, and at the time of or prior to the adoption of such rule files with the secretary of state the text of the rule together with the specific facts, reasons and findings which support its conclusion that there is an immediate danger to the public health, safety or welfare which can be met only through the adoption of such rule and its reasons for concluding that the procedure employed is fair to all interested persons and parties under the circumstances.

Rules filed as emergency rules may be effective not less than ten (10) days after filing or at such later date as may be specified in the rule and may be terminated at any time by the state agency by filing an order with the secretary of state fixing the date of such termination, which order shall be published by the secretary of state in the *Missouri Register* as soon as practicable.

All emergency rules must state the period during which they are in effect, and in no case can they be in effect more than one hundred eighty (180) calendar days or thirty (30) legislative days, whichever period is longer. Emergency rules are not renewable, although an agency may at any time adopt an identical rule under the normal rulemaking procedures.

**Title 13—DEPARTMENT OF SOCIAL SERVICES
Division 70—Division of Medical Services
Chapter 4—Conditions of Recipient Participation,
Rights and Responsibilities**

EMERGENCY RULE

13 CSR 70-4.100 Preventing Medicaid Payment of Expenses Used to Meet Spenddown

PURPOSE: This rule establishes the basis on which the Medical Assistance program may reimburse for Title XIX services after spenddown has been met. Spenddown is a process by which aged persons (over sixty-five (65) years), blind persons, or people with disabilities become Medicaid eligible based on their incurred medical expenses when they would not otherwise be eligible.

EMERGENCY STATEMENT: The Department of Social Services, Division of Medical Services by rule and regulation must define the reasonable costs, manner, extent, quantity, quality, charges, and fees of medical assistance. This rule establishes the basis on which the Division of Medical Services may reimburse enrolled providers for Title XIX (Medicaid Services) after spenddown has been met. Spenddown is a process by which aged persons (over sixty-five (65) years), blind persons, or people with disabilities become eligible for Medicaid based on their incurred medical expenses when they would not otherwise be eligible for medical assistance (Medicaid). To comply with federal law, 42 U.S.C. 1396b(f) and 42 CFR 435.121, since

Missouri does not have a medically needy program that covers aged, blind, and disabled individuals, the Department of Social Services must allow individuals to deduct from income incurred medical and remedial expenses (that is, spenddown) to become eligible. Incurred is defined as "to become liable or subject to" by *The American Heritage Dictionary, Second College Edition*. *Black's Law Dictionary, Fifth Edition*, defines incur as, "To have liabilities cast upon one by act of operation of law, as distinguished from contract, where the party acts affirmatively. To become liable or subject to." The Missouri Medical Assistance Program (Medicaid) will only reimburse enrolled Medicaid providers for covered medical expenses that exceed a recipient's spenddown amount. The Division of Medical Services does not pay the portion of a claim used to meet the applicant's spenddown obligation. The Circuit Court of Jackson County, in a decision issued March 14, 2005, ruled the spenddown process should be in rule. This emergency rule will ensure that Medicaid providers will not lose approximately six (6) million dollars per month in payments or that the taxpayers of Missouri are not obligated to pay the approximately six (6) million dollars per month of incurred medical expenses that approximately twenty thousand (20,000) applicants are responsible for in order to be eligible for Medicaid. The emergency rule must be implemented on a timely basis to ensure the integrity of the Missouri Medical Assistance (Medicaid) Program and comply with federal law. A proposed rule, which covers this same material, is published in this issue of the *Missouri Register*. The scope of this emergency amendment is limited to the circumstance creating the emergency and complies with the protections extended in the *Missouri* and *United States Constitutions*. The Division of Medical Services believes this emergency rule is fair to all interested persons and parties under the circumstances. The Medical Advisory Group was sent a copy of the proposed rule for comment prior to the filing of this emergency rule. Comments will be accepted until April 28, 2005. This emergency rule was filed April 25, 2005, effective May 5, 2005, expires October 31, 2005.

(1) Aged persons (over sixty-five (65) years), blind persons, or people with disabilities with income above limits established under section 208.151.1(25), RSMo for old age assistance benefits, permanent and total disability benefits, or aid to the blind benefits, as amended, are allowed to deduct from income incurred medical expenses (that is, spenddown) to become eligible.

(2) Spenddown eligibility shall be calculated on a monthly basis.

(3) The Missouri Medical Assistance program (Medicaid) will only reimburse enrolled Medicaid providers for covered medical expenses that exceed a recipient's spenddown amount. Medicaid does not pay the portion of a claim used to meet the applicant's spenddown obligation. For example, for the first day of coverage, the Division of Medical Services denies or splits (partially pays) a claim or claims until the applicant's spenddown liability is reduced to zero (0).

(4) After the Division of Medical Services has reduced the recipient's liability to zero (0) for the first day of coverage, other claims submitted for that day of spenddown coverage and claims for the time remaining in the month are paid up to the Medicaid rate.

(5) Recipients shall have the option to pay their monthly spenddown requirement to the Division of Medical Services, much like a premium payment, in order to have continuous Medicaid coverage. Recipients may also arrange to make the monthly spenddown payment through electronic funds transfer (EFT) from a bank account.

AUTHORITY: sections 208.151, RSMo Supp. 2004, 208.153 and 208.201, RSMo 2000. Emergency rule filed April 25, 2005, effective May 5, 2005, expires Oct. 31, 2005. A proposed rule covering this same material is published in this issue of the *Missouri Register*.

The Secretary of State shall publish all executive orders beginning January 1, 2003, pursuant to section 536.035.2, RSMo Supp. 2003.

EXECUTIVE ORDER 05-13

WHEREAS, plant biotechnology is an important industry that is critical to economic development and job creation in Missouri; and

WHEREAS, value-added agriculture and plant life sciences hold great potential to promote economic growth that will sustain Missouri's economy for generations to come; and

WHEREAS, if Missouri is to continue to attract plant biotechnology companies and establish itself as a leader in the plant life science industry, it must provide a fair, science-based regulatory climate and forge a strong partnership between Missouri farmers, business, scientists and government.

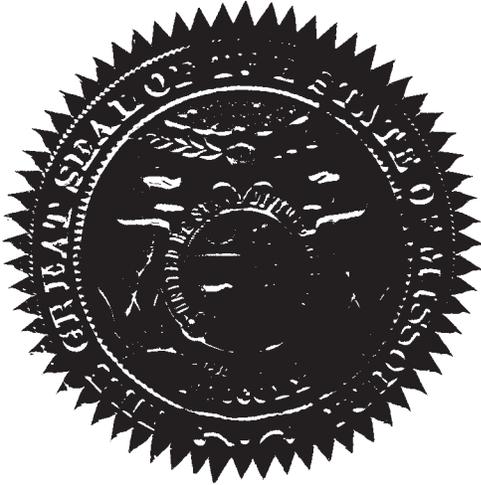
NOW, THEREFORE, I, Matt Blunt, Governor of the State of Missouri, by virtue of the authority vested in me by the Constitution and laws of the State of Missouri, hereby create and establish the Governor's Advisory Council for Plant Biotechnology.

Membership of the Council shall consist of members appointed by the Governor. The Governor shall designate one (1) of the members to act as Chairman. All members of the Council shall serve at the pleasure of the Governor. The Council shall meet when called by the Chairman.

The Department of Economic Development and Department of Agriculture shall provide any staff assistance required by the Council. Members of the Council shall receive no compensation for their services but may be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

The duties of the Council shall include but are not limited to:

1. Advising the Governor of ways to aggressively recruit plant biotechnology companies to Missouri;
2. Helping recruit plant biotechnology companies to Missouri;
3. Making recommendations regarding a potential regulatory structure and process for production of crops with pharmaceutical and industrial applications;
4. Evaluating Missouri's plant life sciences environment and determining ways to better foster Missouri's plant biotechnology industry;
5. Crafting specific initiatives to foster the plant life science industry by addressing identified needs regarding additional financial incentives, additional research programs, and public policy changes; and
6. Serving as a resource for new plant biotechnology companies that are considering locating in Missouri by providing information on a wide range of pertinent topics such as regulatory requirements, available financial incentives, sources of investment capital, and agronomic variables in various areas of the state.



IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Missouri, in the City of Jefferson, on this 26th day of April, 2005.

A handwritten signature in black ink, appearing to read "Matt Blunt", written over a horizontal line.

Matt Blunt
Governor

ATTEST:

A handwritten signature in black ink, appearing to read "Robin Carnahan", written over a horizontal line.

Robin Carnahan
Secretary of State